

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING

ANDREW W. CASTANEIRA,

Plaintiff,

v.

**CIVIL ACTION NO. 5:17-CV-139
(BAILEY)**

S. ANDREW ARNOLD, et al.,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge James P. Mazzone [Doc. 24]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Mazzone for submission of a proposed report and recommendation ("R&R"). Magistrate Judge Mazzone filed his R&R on January 2, 2020, wherein he recommends this Court find that plaintiff's Complaint fails to state a claim upon which relief can be granted and, thus, dismiss this civil action pursuant to the provisions of 28 U.S.C. § 1915(e)(2)(B) and 1915A.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right

to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Mazzone's R&R were due within fourteen (14) days of service, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). The docket reflects that service was accepted on January 6, 2020 [Doc. 25]. However, this Court granted plaintiff's Motion for Extension of Time to File Objections [Doc. 26], and allowed plaintiff until February 21, 2020, to file his objections. See [Doc. 27]. Nonetheless, despite this extension of time, no objections have been filed to date. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the above, it is the opinion of this Court that the Report and Recommendation [Doc. 24] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, this Court finds plaintiff's Complaint [Doc. 1] fails to state a claim upon which relief can be granted, and therefore hereby **DISMISSES** this civil action pursuant to the provisions of 28 U.S.C. § 1915(e)(2)(B) and 1915A. This Court further **ORDERS** that this matter be **STRICKEN** from the active docket of this Court and **DIRECTS** the Clerk to enter judgment in favor of defendants.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record herein and to mail a copy to the *pro se* plaintiff.

DATED: February 26, 2020.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE